

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO**

<b>UNITED STATES OF AMERICA, et al.,</b>	:	<b>CASE NO.: C-1-02-107</b>
	:	
<b>Plaintiffs,</b>	:	<b>JUDGE S. ARTHUR SPIEGEL</b>
	:	<b>MAGISTRATE HOGAN</b>
<b>v.</b>	:	
	:	<b>RESPONSE TO HARRIS</b>
	:	<b>REQUEST FOR REVIEW</b>
<b>BOARD OF HAMILTON COUNTY COMMISSIONERS, et al.</b>	:	
	:	
<b>Defendants.</b>	:	

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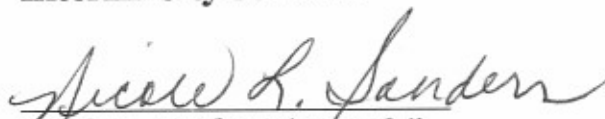
The City and County Defendants ("MSD") respond to Michael D. Harris's Motion for Review (Doc #201) as follows:

1. The MSD investigated Mr. Harris's claim and denied his claim. Michael Pittinger is the Superintendent of Wastewater Collection.
2. Mr. Pittinger determined that the water in the basement was caused by roots in Mr. Harris's house lateral in the right-of-way. (Attached Complaint Form, Exhibit A)
3. MSD will repair or reconstruct the that portion of the house lateral within the street right of way when the lateral fails because of a broken or collapsed pipe pursuant to Section 1207 of MSD rules and regulations. ( Attached as Exhibit B)
4. Mr. Harris owns the property serviced by the lateral and as such is responsible for the lateral's maintenance.

Accordingly, the MSD defendants request that the Court separately review the claimed damages, and that thereafter the Court affirm City's determination.

**Respectfully submitted,**

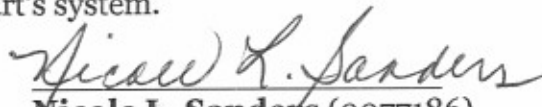
**Patricia M. King (0061464)**  
**Interim City Solicitor**



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Trial attorney for Defendants

**CERTIFICATE OF SERVICE**

I hereby certify that on May 28, 2008 a true and accurate copy of the foregoing Response was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system and copies will be mailed to those parties who are not served via the Court's electronic filing system. Parties may access this filing through the Court's system.



**Nicole L. Sanders (0077186)**  
Assistant City Solicitor



**METROPOLITAN SEWER DISTRICT  
OF GREATER CINCINNATI**

1600 Gest Street  
Cincinnati, Ohio 45204  
513-244-1300  
[www.msdc.org](http://www.msdc.org)

James A. Parrott  
**Executive Director**

April 17, 2008

Michael D. Harris  
6730 North Clippinger Drive  
Indian Hill, Ohio 45243

RE: Water in Basement claim for 6730 North Clippinger

Dear Mr. Harris:

A review of your claim has determined that your Water in Basement incident on December 13, 2007 was caused by roots in your house lateral in the right-of-way. Though MSD is responsible for repair and reconstruction of that part of a house lateral in the right-of-way, the lateral is owned by the owner of the building served by the lateral. Therefore, MSD must reject your claim for damages.

**If you disagree with the City's disposition of your claim you may appeal the decision through standard legal process in the courts of Hamilton County in the Hamilton County Municipal Court or the Court of Common Pleas. Both of these courts are located at 1000 Main Street.**

**Alternatively, in accordance with an order in the Consent Decree case, Federal District Court case # C-1-02-107, you may file a Request for Review with the Federal Court in Cincinnati, Ohio. You should file your Request within 90 days with the Clerk's Office of the Federal Court located in the Potter Stewart U.S. Courthouse, Room 103, 100 East 5<sup>th</sup> Street, Cincinnati, Ohio 45202. You may call the court-appointed Ombudsman, the Legal Aid Society, at (513) 362-2891 for further information concerning your rights under the Consent Decree.**

Sincerely,

Michael Pittinger, Superintendent  
Wastewater Collections

enc.

**Customer Service**  
513-352-4900

**Emergency Service**  
513-352-4900





## Section 1206

The new development of residential subdivisions with sanitary sewers, all lots shall be served by connections to the sanitary sewer system either by gravity or by means of a pump or ejector. No individual disposal devices will be permitted.

In all buildings in which any building drain is too low to permit gravity flow to the sanitary sewer system, any sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

## Section 1207

The owner of the premises served by a sewer shall be responsible for the maintenance and cleaning of the building sewer from the building to the point of connection with the public local sewer and for the maintenance, operation, cleaning, repair, and reconstruction of the building sewer from the building to the property line or point of connection in a public easement. Repair and reconstruction of the building sewer in a public right-of-way shall be the responsibility of the Department. It shall be the responsibility of the owner or his agent to establish, by means of a valid sewer cleaner contractor's receipt, that such repair or reconstruction is the responsibility of the Department. The Department shall have the right to verify the sewer cleaner's finding prior to beginning repair or reconstruction. A proper cleanout must be in place prior to such operation by the Department.

## Section 1208 (Changed - 1988)

Permits to connect building sewers, to open, or alter any public/ private sanitary or combined sewer or appurtenance will be issued only to a person engaged in the business of sewer construction or tapping and possessing a valid license and bond from the Department.

## Section 1209

The person to whom a connection permit is issued will be held responsible for the proper installation of the building sewer in accordance with these Rules and Regulations, subject, however to the condition that he or it holds the Department harmless from any loss or damage.

## Section 1210

The person to whom a connection permit is issued shall be responsible for obtaining any additional required permits to open cut any street, road or highway, from the appropriate public authority having jurisdiction over such street, road or highway, and shall comply with all conditions required by such additional permits.

## Section 1211

There shall be two (2) types of building sewer connection permits: (1) for residential and commercial service; and (2) for service to establishments discharging industrial wastes. In either case, the owner of

EXHIBIT

B